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BOREN, STOKES CALL FOR RELEASE OF JFK FILES

Senator David Boren, Chairman of the Senate Intelligence Committee, and Congressman Lou Stokes, former Chairman of the House Select Committee on Assassinations, introduced a joint resolution today which would create a comprehensive process for opening the files on the assassination of President John F. Kennedy.

"The time has come to open these files and let them speak for themselves," said Boren. "Let historians and journalists and the people read them and draw the appropriate conclusions. We have waited long enough. The time is ripe."

The Stokes-Boren legislation would mandate that all federal records relating to the assassination of President Kennedy be reviewed for release, including files from the CIA, the FBI, the Warren Commission, the House Assassinations Committee and the Church Committee (now under the custody of the Senate Intelligence Committee).

The resolution would establish an impartial, independent 5-member Review Board with overall responsibility for reviewing and opening the files. The board would be appointed by the special federal court which appoints Independent Counsels.

Boren said he was especially concerned that younger Americans, born after the Kennedy assassination, would have their faith in government diminished by Washington's unwillingness to open the files.

"It is time to review these records, not in terms of the old assumptions, but rather in light of the need for openness and to encourage confidence in the Government," said Boren. "We need to ensure ourselves of the facts, that there is not information lurking somewhere in the Government that would shed new light on what remains perhaps the most heinous and enigmatic crime of this century."

Boren also said that total disclosure could increase the accountability of U.S. intelligence activities.

"The timely release of all documents of historic value and importance helps to assure that even the most secret programs of our government will be operated in accordance with basic American

(more)

values. Current intelligence operations will be even more carefully conducted when it is recognized that they will be scrutinized by the public during the lifetime of many of those who administered the programs."

KEY FEATURES OF JFK FILES RESOLUTION

-- Mandates a comprehensive review of all federal government records relating to the assassination of President John F. Kennedy, including the records of the Warren Commission, the House Assassinations Committee, the Church Committee, and all Executive branch agencies, including the CIA and FBI.

-- Establishes an impartial, independent 5-member Review Board appointed by the special federal court which appoints Independent Counsels with overall responsibility for conducting this review in accordance with the standards set forth in the Resolution.

-- Requires that all federal records relating to the assassination of President Kennedy be made available to the Executive Director of the Review Board.

-- To the extent the Executive Director of the Board and the Executive agency or congressional committee which originated an assassination record can agree that the record should be released pursuant to the standards in the Resolution, the record shall be automatically released to the public through the National Archives.

-- Where the originating agency or committee raises objections to release of particular records pursuant to the standards set forth in the Resolution, or where there is a concern for individual privacy apparent in a record to be released, the Executive Director is required to refer the case to the Review Board for decision.

-- The Review Board must evaluate each record referred. It may convene hearings, issue subpoenas, and make such consultations as may be necessary to arrive at a decision.

-- The Resolution provides several general categories which might justify postponing the immediate disclosure of an assassination record, but provides that postponement will always be weighed against the public interest in disclosure of the record in question. These categories include the protection of current intelligence sources or methods, damage to current foreign relations, the preservation of guarantees of confidentiality made to witnesses, substantial invasions of personal privacy, and the disclosure of measures used by the Secret Service and other agencies to protect government officials.

-- The Review Board is authorized to release portions of documents that are not affected by the originating agency or committee's objection, and to consider appropriate summaries or substitutions for information whose release would otherwise qualify for postponement, in the interest of the fullest disclosure.

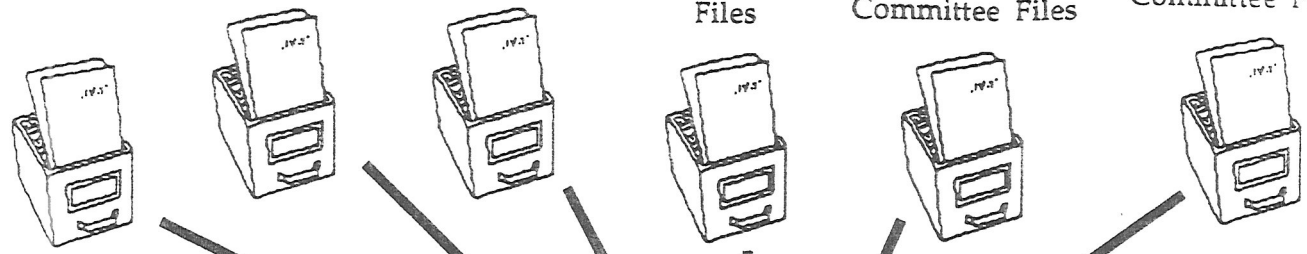
-- If the Review Board determines that release of a particular record should be postponed, it must assign a date or event after which such record should again be reviewed for release by the Archivist. Notice of the Board's decisions to postpone will be published in summary form.

-- If the Review Board determines that a record should be disclosed, the Board's decision is final, except where the record was originated by an agency within the Executive Branch. In this case, should the President personally determine within 60 days that the Board's decision should be superceded, he may order that disclosure of the record concerned be postponed until a future date or event. The President is required to publish notice of his decisions in the Federal Register and to provide copies of the documents in question together with his reasons for postponing disclosure to the congressional committees charged with oversight of the Board.

-- The Review Board is authorized to obtain detailees from Executive branch agencies necessary to enable it to accomplish its functions.

-- The term of the Review Board is two years beginning from the date it is officially convened and operational. The Board may extend itself by majority vote for an additional year if needed to complete its work. Further extensions must be authorized by Congress.

CIA Files FBI Files Other Executive Branch Files Warren Commission Files House Assassination Committee Files Senate Church Committee Files



Executive Director of Review Board

Decision:

Release

Refer

Postpone Release

(Difficult cases or Privacy Materials)

Final
Unless Applicable
Agency or
Committee Appeals

Review Board
(Court Appointed)

Decision:

Release

Postpone Release

Final
Unless Record is an Executive
Branch Record and President
Blocks Release with Notice to
Public and Congress

Final
Notice to Public and
Congress

STATEMENT OF SENATOR DAVID L. BOREN

INTRODUCTION OF ASSASSINATION MATERIALS
DISCLOSURE ACT OF 1992

Mr. BOREN. Mr. President, today I introduce a Senate Joint Resolution entitled the Assassination Materials Disclosure Act of 1992. The purpose of this legislation is to provide for a comprehensive process ultimately leading to the release of all materials held by the United States Government regarding the assassination of President John F. Kennedy. Congressman Louis Stokes, the distinguished former Chairman of the House Assassinations Committee, is today introducing identical legislation in the House of Representatives.

We have, of course, had at least three substantial investigations into the Kennedy assassination: the first conducted by the Warren Commission appointed by President Johnson in the mid-1960s; the second, by the Church Committee in 1975 as part of its investigation of CIA assassination plots against foreign leaders; and finally, the third was the extensive investigation of the House Assassinations Committee in the late 1970s.

Each of these investigations, particularly the Warren Commission and House Assassinations Committee investigation, produced long, detailed public reports concerning the Kennedy assassination. Literally hundreds of books and articles have been written on the subject.

Yet still, almost 30 years later, the questions remain.

The recent release of the controversial film "JFK" has raised them anew, suggesting that answers may well lie in the assassination records and other materials that remain sealed by our Government. Even prior to the release of "JFK," in fact, there were diligent efforts made by researchers as well as concerned legislators to open these files for public review.

Mr. President, I do not know what all of these files contain. Specifically, I do not know whether they contain information that would change the findings of the previous investigations or not.

But it seems to me the time has come to open these files to the public and let them speak for themselves. Let historians and journalists and the people read them, and draw the appropriate conclusions. As a general principle, the Intelligence Community should make

available its records after the passage of a reasonable amount of time when current sources and methods would no longer be compromised. The American people have a right to assure themselves to the greatest degree possible of the accuracy of the historical record of our government. The timely release of all documents of historic value and importance helps to assure that even the most secret programs of our government will be operated in accordance with basic American values. Current intelligence operations will be even more carefully conducted when it is recognized that they will be scrutinized by the public during the lifetime of many of those who administered the programs.

This is not to say, however, that these files can prudently be released without careful review. There are important governmental interests to take account of, as well as individual privacy interests at stake.

What this Resolution proposes is a comprehensive, government-wide review of the Kennedy assassination records conducted under the auspices of an impartial, independent board.

It may be useful to state precisely what these records consist of. First, they would encompass all of the records of the FBI, the CIA, Secret Service, military intelligence, and other Executive branch agencies which may pertain to the Kennedy assassination. They include the records of the Warren Commission and the Church Committee. Finally, they would include records of the House Select Committee on Assassinations. Many of these records are now stored under seal at the National Archives, while many others remain in agency files.

While much material has previously been released by the Archives and as a result of Freedom of Information Act litigation, a great deal remains shielded from public view. Approximately twenty boxes of the internal files generated by the Warren Commission are still sealed. Experts estimate that a much greater volume of FBI and CIA files remain sealed. Many pages of documents that have been released have been so extensively redacted that their informational value is minimal. The extensive files of the House Assassinations Committee, some 848 boxes of materials on both Kennedy and King assassinations, currently are sealed until the year 2029.

To date, these records have been withheld from the public due to a variety of concerns: the fear of damaging foreign relations, the concern for disclosing the identities of confidential sources or informants, and the desire to protect the privacy of individuals. While these concerns may yet retain some validity in a very few

isolated cases, it seems to me that with the passage of time, there should remain very few objections to full disclosure. I believe it is time to review these records, not in terms of the old assumptions, but rather in light of the need for openness and to encourage confidence in the Government. We need to ensure ourselves of the facts, that there is not information lurking somewhere in the Government that would shed new light on what remains perhaps the most heinous and enigmatic crime of this century.

The Joint Resolution would make it much harder to justify the continued shielding of a document from public view. It would also create a process by which many records could be promptly released. Any arguments made for withholding any document or portions of it must be weighed against the strong public interest in disclosure. The resolution establishes this kind of balancing test with a strong presumption in favor of disclosure.

In addition, to address the problem of heavily redacted and therefore meaningless documents, the Joint Resolution borrows a page from the Classified Information Procedures Act, the law that covers the handling of secret information in criminal trials. Under that law, judges have discretion to permit introduction in evidence of summaries or substitutes in place of classified information. The Joint Resolution provides for creation of such summaries or substitutes, so that the public can learn essential facts about the Kennedy assassination from a document even where references to private matters or crucial national security secrets would render the document itself mostly unreleasable.

In all cases, the Joint Resolution requires that the presumption is in favor of release. All records will be released unless there is clear and convincing evidence that postponing release is essential to a vital interest.

Now let me briefly explain the process established by the Joint Resolution for applying these disclosure standards.

The Joint Resolution creates a five-member panel called the Assassination Material Review Board. The members of this Review Board would be distinguished private citizens outside of government who have had no prior involvement with previous inquiries into the Kennedy assassination. This Review Board, aided by an executive director and staff, would play the central role in the release of the assassination materials. The Board would be required to complete its work within two years of its first meeting, although it is certainly expected that it could be completed much more quickly. The point is to

proceed expeditiously, while still doing a careful job.

We faced a difficult choice in deciding who should appoint the Review Board. Given the unique circumstances involved, allowing the President or Congress to appoint the Board did not seem appropriate. We settled instead on the special three-judge federal court division that appoints independent counsels for criminal investigations. Some may contend that this choice raises constitutional problems, despite the decision of the Supreme Court in Morrison v. Olson, 487 U.S. 654 (1988), which upheld the power of that division to appoint independent counsels. Some may feel that a judicial panel is ill-suited to make appointments for this task. The judges themselves, who have small staffs and other concerns, might well prefer to avoid this assignment. Still, we have found no better solution.

Under the Joint Resolution, the first step would be to make available to the Executive Director appointed by the Review Board all Government assassination materials. Where the Executive Director suspects that the agencies have failed to submit some of the relevant records, he or she has authority to question the agencies and to use the subpoena power of the Review Board to obtain these records.

The Executive Director, assisted by employees of the Review Board and, if deemed necessary, detailed from elsewhere in the Government, would undertake the initial screening of these records. If the Executive Director concluded that a particular record was appropriate for release, the record would automatically be released, unless the record implicated personal privacy or the Executive agency or congressional committee with responsibility for that record filed an appeal with the Review Board.

If the Executive Director determined that a particular record was not appropriate for release under present circumstances or that the record implicated personal privacy concerns, he or she would automatically be required to refer that decision to the Review Board.

The Executive Director would also be permitted to refer particularly difficult decisions, or decisions requiring further investigation, to the Review Board.

In deciding on appeals and referrals from the Executive Director, the Review Board would have authority to conduct hearings and subpoena records and witnesses.

The Review Board would have final say as to the release or non-release of all materials, except that in

the case of Executive branch materials, the President would have the authority to supersede the Board's determination and postpone release. But each time the President did so, he would be required to explain his reasons, both in a notice to the public and to the Congress. Decisions by the Review Board itself to postpone release of records would also have to be explained to the public and Congress.

Finally, under the Joint Resolution, no item would remain permanently sealed. The Review Board, before finishing its work, would designate as to every item still withheld a specified time or a specified occurrence following which the item could be released. The files would then be transferred to the Archives, where the Archivist would have a continuing duty to reconsider them for release under the standards set by the Joint Resolution.

Materials released by the Archivist or the Review Board would be available in the Archives for public review and copying.

Our Joint Resolution also makes clear that an Executive branch agency or congressional committee retains its existing powers under the law to release a particular record even if the Joint Resolution does not require it to do so, and that the members of the public can continue to use the Freedom of Information Act to request from the agencies documents related to the assassination.

Mr. President, this Resolution may appear complicated, but the matter of disclosure is itself complicated. It cannot be accomplished arbitrarily or summarily. The process established by the Resolution, in my view, is logical and takes account of all the interests and equities in the disclosure of these documents. In the end, I think it will result in all of the pertinent information pertaining to the assassination of President Kennedy being made public in an orderly way, and, in doing so, will help restore confidence among the public in our Government.

I know of no reason why this should not be done, and done now. I have talked with a variety of people both inside and outside the Government about this Resolution, and I have yet to hear anyone object to such a review. Judge William Webster, the only person to have served as both Director of the FBI and Director of Central Intelligence, has publicly stated that he knows of no national security reason for keeping the JFK assassination materials secret. Robert Gates, the present Director of Central Intelligence, has pledged his cooperation with any such review that may be undertaken. The Dallas City

Council recently made public the assassination materials gathered by the Dallas Police Department. The files of the federal government must be opened as well to complete the picture.

It is my hope that the Senate and House will expeditiously consider this resolution, and send it to the President. The work of the Review Board must begin. We have waited long enough. The time is ripe.

I ask unanimous consent that the text of the Joint Resolution be printed in the RECORD at the conclusion on my remarks.